

DOUGLAS E. LUMISH (Bar No. 183863)
dlumish@kasowitz.com
JEFFREY G. HOMRIG (Bar No. 215890)
jhomrig@kasowitz.com
JOSEPH H. LEE (Bar No. 248046)
jlee@kasowitz.com
L. OKEY ONYEJEKWE JR. (Bar No. 250354)
oonyejekwe@kasowitz.com
JOSEPH G. SHEAR (Bar No. 262222)
jshear@kasowitz.com
KASOWITZ, BENSON, TORRES &
FRIEDMAN LLP
333 Twin Dolphin Drive, Suite 200
Redwood Shores, CA 94065
Telephone (650) 453-5170
Facsimile (650) 453-5171

STEVEN D. CHIN (*pro hac vice*)
schin@kasowitz.com
STEFAN R. STOYANOV (*pro hac vice*)
sstoyanov@kasowitz.com
Kasowitz, Benson, Torres & Friedman LLP
1633 Broadway
New York, New York 10019
Telephone (212) 506-1700
Facsimile (212) 506-1800

*Attorneys for Plaintiffs/Counterclaim
Defendants, TransPerfect Global, Inc.,
TransPerfect Translations International, Inc.,
and Translations.com, Inc.*

ANTHONY DE ALCUAZ (SBN: 65599)
PHILIP OU (SBN: 259896)
McDERMOTT WILL & EMERY LLP
275 Middlefield Road, Suite 100
Menlo Park, CA 94025 4004
Telephone: (650) 815-7400
Facsimile: (650) 815-7401
Email: adealcuaz@mwe.com
pou@mwe.com

JOEL M. FREED
ALEXANDER OTT (*pro hac vice*)
McDERMOTT WILL & EMERY LLP
600 13th Street, N.W., 12th Floor
Washington, D.C. 20005-3096
Telephone: (202) 756-8000
Facsimile: (202) 756-8087
Email: jfreed@mwe.com
aott@mwe.com

*Attorneys for Defendant/Counterclaim Plaintiff
MotionPoint Corporation*

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

TRANSPERFECT GLOBAL, INC.,
TRANSPERFECT TRANSLATIONS
INTERNATIONAL, INC., AND
TRANSLATIONS.COM, INC.,

Plaintiffs/Counterclaim
Defendants,

v.

MOTIONPOINT CORPORATION,

Defendant/Counterclaim
Plaintiff.

Case No. CV 10-02590 CW

**JOINT CLAIM CONSTRUCTION
AND PREHEARING STATEMENT
[PATENT L.R. 4-3]**

Honorable Claudia Wilken

JOINT CLAIM CONSTRUCTION AND
PREHEARING STATEMENT

Case No. CV 10-02590 CW

Pursuant to Patent Local Rule 4-3, Plaintiffs and Counterclaim Defendants TransPerfect Global, Inc., TransPerfect Translations International, Inc., and Translations.com, Inc. (collectively “TransPerfect”) and Defendant and Counterclaim Plaintiff MotionPoint Corporation (“MotionPoint”) provide the following Joint Claim Construction and Prehearing Statement.

I. The Construction of Terms on Which the Parties Agree (P.L.R. 4-3(a))

TransPerfect and MotionPoint (the “Parties”) have not agreed upon the construction of any term.

II. Proposed Constructions of Disputed Terms (P.L.R. 4-3(b))

The Parties’ proposed constructions of all disputed terms are set forth in the accompanying Exhibit A along with the identification of all references from the specification or prosecution history that support that construction, and an identification of any extrinsic evidence¹ known to the party on which it intends to rely either to support its proposed construction or to oppose any other party’s proposed construction.

III. Most Significant Terms (P.L.R. 4-3(c))

The Parties’ proposed constructions of the ten disputed terms which the parties deem most significant to the resolution of the case are provided in the chart below.

TransPerfect asserts that the terms “dividing/parsing” and variants, “human translation” and variants, “generating an updated content,” “scheduling” and variants, and “segment of text” are claim dispositive terms.

MotionPoint asserts that the terms “detecting when”, “a pipeline”, “dynamically routing and sequencing”, “obtaining a translation”, and “means for receiving an electronic communication...” are claim dispositive terms.

Proposed Claim Term	TransPerfect’s Proposed Construction	MotionPoint’s Proposed Construction
“dividing” (’960 patent, claims 1, 14, 15, 16, 30, 31, and 32;	“breaking-up the content into translatable components	Plain and ordinary meaning

¹ MotionPoint objects to TransPerfect’s designation of the testimony of Dr. Paul Clark as not compliant with PLR 4-2(b).

Proposed Claim Term	TransPerfect's Proposed Construction	MotionPoint's Proposed Construction
'216 patent, claims 1, 24, 27, and 36) and "parsed" ('216 patent, claim 11) and "parsing" ('817 patent, claims 1, 10, 11, 12, 18, 20, 23, 32, 33, and 34)	according to HTML tags surrounding each translatable component"	
"detecting when" ('426 patent, claims 1, 5, 7, 9, 14, 15, 17, 22, and 23; '005 patent, claims 1, 4, and 7)	Plain and ordinary meaning. or, if the Court determines that construction is necessary, this term should be construed to mean: "discovering or determining when"	"monitoring as"
human translation ('960 patent, claims 4, 19, and 35; '216 patent, claims 20, 27, and 34, '479 patent, claims 1, 16, 19, 21, 22, 30, 31, 32, and 33) and using a human translator ('216 patent, claims 1, 27, and 36) and human translating ('817 patent, claims 2, 13, and 21) and human translated ('817 patent, claim 23)	Indefinite or, if the Court determines that construction is necessary, this term should be construed to mean: Human translation: "Translation involving only human activities"; Using a human translator: "using a human for translation involving only human activities"; Human translating: "translating involving only human activities"; Human translated: "translated involving only human activities"	Plain and ordinary meaning
"a pipeline" ('426 patent, claims 7, 15, and 23)	Plain and ordinary meaning. If construed, then "software for performing a process in series"	"a transport layer for scheduled dispatch of documents to translation resources"

Proposed Claim Term	TransPerfect's Proposed Construction	MotionPoint's Proposed Construction
"generating an updated content" ('960 patent, claims 1, 16, and 32)	"Generating an update of previously-translated and previously-generated content"	Plain and ordinary meaning
"dynamically routing and sequencing" ('426 patent, claims 1, 5, 9, 14, 17, and 22)	Plain and ordinary meaning.	"using status information to automatically provide dispatch and control decisions"
"scheduling" ('216 patent, claims 1, 27, and 36; '479 patent, claims 1, 16, 21, 22, 32, and 33)	"appointing, assigning, or designating for a fixed time"	Plain and ordinary meaning
"obtaining a translation" ('022 patent, claims 1 (both occurrences) and 17 (both occurrences))	Plain and ordinary meaning.	"acquiring by effecting a translation"
"segment of text" ('216 patent, claims 1, 27, and 36)	"a chunk of text on the page as defined by the HTML that surrounds it"	Plain and ordinary meaning
"means for receiving an electronic communication in response to clicking a single action translation component displayed simultaneously with at least part of said electronic communication, the electronic communication comprising at least text of more than one word and one or more hyperlinks to further electronic communications, said translation component comprising an object identified as effecting a translation of said electronic communication in a single action" ('022 patent, claim 26)	Function: receiving an electronic communication Structure: Portion of the translation manager connected to a communications network	Function: receiving an electronic communication in response to clicking a single action translation component displayed simultaneously with at least part of said electronic communication, the electronic communication comprising at least text of more than one word and one or more hyperlinks to further electronic communications, said translation component comprising an object identified as effecting a translation of said electronic communication in a single action Structure: no clearly linked structure disclosed

IV. Anticipated Length of Hearing and Identification of Witnesses (P.L.R. 4-3(d) & (e))

The Court has ordered that any issues related to claim construction will be adjudicated only in combination with briefing and argument on summary judgment. Accordingly, the parties

do not provide estimates for the length of time necessary for a Claim Construction Hearing. For the same reason, the parties do not disclose any witnesses that may be called at a Claim Construction Hearing

Dated: April 5, 2012

Respectfully submitted,

/s/ Joseph H. Lee
DOUGLAS E. LUMISH (Bar No. 183863)
dlumish@kasowitz.com
JEFFREY G. HOMRIG (Bar No. 215890)
jhomrig@kasowitz.com
JOSEPH H. LEE (Bar No. 248046)
jlee@kasowitz.com
L. OKEY ONYEJEKWE JR. (Bar No. 250354)
oonyejekwe@kasowitz.com
JOSEPH G. SHEAR (Bar No. 262222)
jshear@kasowitz.com
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333 Twin Dolphin Drive, Suite 200
Redwood Shores, CA 94065
Telephone (650) 453-5170
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STEVEN D. CHIN (*pro hac vice*)
schin@kasowitz.com
STEFAN R. STOYANOV (*pro hac vice*)
sstoyanov@kasowitz.com
Kasowitz, Benson, Torres & Friedman LLP
1633 Broadway
New York, New York 10019
Telephone (212) 506-1700
Facsimile (212) 506-1800

*Attorneys for Plaintiffs/Counterclaim
Defendants, TransPerfect Global, Inc.,
TransPerfect Translations International, Inc.,
and Translations.com, Inc.*

/s/ Philip Ou
ANTHONY DE ALCUAZ (SBN: 65599)
PHILIP OU (SBN: 259896)
McDermott Will & Emery LLP
275 Middlefield Road, Suite 100
Menlo Park, CA 94025 4004
Telephone: (650) 815-7400
Facsimile: (650) 815-7401
Email: adealcuaz@mwe.com
pou@mwe.com

JOEL M. FREED
ALEXANDER OTT (*pro hac vice*)
McDermott Will & Emery LLP
600 13th Street, N.W., 12th Floor
Washington, D.C. 20005-3096
Telephone: (202) 756-8000
Facsimile: (202) 756-8087
Email: jfreed@mwe.com
aott@mwe.com

*Attorneys for Defendant/Counterclaim Plaintiff
MotionPoint Corporation*

1 I hereby attest pursuant to General Order 45.X.B. that concurrence in the electronic
2 filing of this document has been obtained from the other signatories.

3
4 Dated: April 5, 2012

/s/ Philip. Ou

Philip Ou

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McDERMOTT WILL & EMERY LLP
ATTORNEYS AT LAW
WASHINGTON